

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7216**

**BILL NUMBER:** SB 459

**NOTE PREPARED:** Apr 3, 2013

**BILL AMENDED:** Apr 2, 2013

**SUBJECT:** Local Government Reorganization.

**FIRST AUTHOR:** Sen. Miller Pete

**FIRST SPONSOR:** Rep. Steuerwald

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Funds and Taxes:* The bill specifies that after a local government reorganization, a reorganized political subdivision may (except as provided in the plan of reorganization) do any of the following:

- (1) Establish any fund that one or more of the reorganizing political subdivisions were authorized to establish before the reorganization.
- (2) Impose any tax levy or adopt any tax that one or more of the reorganizing political subdivisions were authorized to impose or adopt before the reorganization.

*Reorganizations, Mergers, Cooperation Agreements, and Combinations:* It provides that in the case of:

- (1) a local government reorganization;
- (2) a township merger;
- (3) a transfer or sharing of powers, duties, functions, or resources under an interlocal cooperation agreement; or
- (4) a combination or reorganization of a political subdivision's departments, agencies, or functions;

the reorganizing or merging local governments shall specify in the reorganization plan or in the cooperative agreement or other agreement the amount (if any) of the decrease that the Department of Local Government Finance (DLGF) shall make to the maximum property tax levies, maximum property tax rates, and budgets of the political subdivision to eliminate double taxation or eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

*Township Mergers:* The bill also provides the following regarding a township that merges with another

township:

- (1) The new township may use any funds that are not needed to deliver services to pay the indebtedness of the new township government.
- (2) After satisfaction of the indebtedness, the new township may do the following with any remaining excess funds:
  - (A) Transfer the funds to the county or a municipality having jurisdiction within the new township to make improvements to infrastructure located within the new township.
  - (B) Transfer the funds to a transportation corporation that offers service within the area of the new township.
  - (C) Use the funds for improvement of any fire department that serves the area of the new township.
  - (D) Transfer the funds to a political subdivision that has jurisdiction within the new township for improvement of any fire department that provides service within the area of the new township.

The bill requires the DLGF to assist township mergers and prohibits the DLGF from preventing or delaying township mergers. It removes the requirement that a county legislative body adopt an ordinance ordering a township merger after the legislative bodies of the merging townships adopt resolutions approving the merger. It also removes provisions that prohibit a merger from being approved less than one year before the merger becomes effective. The bill provides that a township merger may reduce the term of office of a township trustee.

*Township Mergers within Marion County:* The bill allows townships in a county having a consolidated city to merge. It provides the following regarding a merger of townships in a county having a consolidated city:

- (1) A merger does not affect the small claims courts or judges of the small claims courts or reduce the terms of constables. It provides, however, that at the end of the constables' term the constable offices are consolidated into one elected office for the merged township.
- (2) It prohibits, as a result of a merger, the expansion of a township fire department or fire protection territory into the fire special service district of the consolidated city or a township that has consolidated its fire department or fire protection territory.

**Effective Date:** (Amended) Upon passage; July 1, 2013.

**Explanation of State Expenditures:** (Revised) *Department of Local Government Finance (DLGF):* The political subdivision, agreement, or plan of reorganization would be required to eliminate double taxation by different political subdivisions or eliminate any excess by which property tax revenue exceeds the amount necessary to pay for services. In most cases, the adjustments would be certified to the DLGF. The reduction in requirements for the DLGF are routine administrative functions and should not affect the DLGF's appropriations, assuming near customary agency staffing and resource levels.

(Revised) **Background:** Under current law, for reorganizations, mergers, cooperation agreements, and combinations, the DLGF adjusts the maximum permissible property tax levy and property tax rate to reflect the transfer of duties and responsibilities and reviews balances in political subdivision funds and determines if an excess balance exists. Current law specifies the amount the political subdivision may continue to levy or include in its budget for the first four years of the adjustment.

## **Explanation of State Revenues:**

**Summary of NET Local Impact:** (Revised) The bill will have indeterminate fiscal impact in the case of a local government reorganization, merger, cooperation agreement, combination, or the reorganization of a township and another political subdivision. The bill may facilitate the consolidation of governmental units by making provisions for fire services funding and to pay off certain debts when a township combines with another political subdivision; by allowing political subdivision to determine (directly or through an agreement or a plan of reorganization) if there is double taxation or excess tax, rather than the DLGF; and by allowing an entity reorganizing by referendum to establish a fund or impose a tax that at least one of the reorganizing entities previously had authority to establish or impose.

The merger of townships may be facilitated by allowing townships in Marion County to merge, by allowing townships to maintain excess funds to pay indebtedness or to transfer excess funds in certain circumstances, by allowing for the reduction of a township trustee's term, by instructing the DLGF to assist townships in merging, and by eliminating county approval of plans to merge.

To the extent that a reorganization, merger, cooperation agreement, or other combination provides efficiency, facilitating this reduction in governmental entities could reduce costs.

However, in providing for fire services funding and debt payoff in the reorganization of a township with another political subdivision, the bill may allow for continuation of certain costs in the near term. Additionally, reorganizing townships may use excess funds to pay indebtedness transferred to the new township government or for other specified purposes once the indebtedness is paid. And in the case of reorganizing townships in Marion County, the township small claims courts would continue.

**Explanation of Local Expenditures:** *Township Reorganizing with Another Political Subdivision - Township Assistance:* The reorganized unit would continue to pay township assistance for all residents in the township. Township residents outside of the reorganized territory would have the opportunity to object to the township assistance levy.

(Revised) *Township Mergers within Marion County:* The merger of townships within Marion County would not result in reduction in the jurisdiction of the township small claims courts. However, at the end of the term of an elected constable, the offices could be combined, which could result in indeterminate cost savings if efficiencies can be achieved.

(Revised) *Reorganizations, Mergers, Cooperation Agreements, and Combinations:* Any cost savings generated by the consolidation of local units will depend on the circumstances of the political subdivisions merging and the efficiencies achieved. Political subdivisions, a cooperative agreement, or plan of reorganization will determine excess funds and duplicate taxation.

**Explanation of Local Revenues:** *Township Reorganizing with Another Political Subdivision - Firefighting Fund:* This bill would set the reorganized unit's maximum fire fund levy equal to the township's prior year maximum fire levy, *plus* normal growth at the state's growth quotient, *plus* any amount borrowed in the previous year under an emergency fire loan. The reorganized unit would not be permitted to take out an emergency fire loan.

*Township Reorganizing with Another Political Subdivision - Cumulative Firefighting Building and*

*Equipment Fund and Fire-Related and Emergency Borrowing Repayment:* The bill will have indeterminate fiscal impact on a reorganized township, but it potentially increases the levy limit for fire-related expense and increases the term of repayment for fire-related or emergency debt. The taxpayers who were originally responsible for funding debt repayments will continue to be the responsible taxpayers after the reorganization.

(Revised) *Reorganizations, Mergers, Cooperation Agreements, and Combinations:* In the case of a reorganization under the Government Modernization statute, unless stated otherwise in the plan of reorganization, the new political subdivision would be able to establish funds and levy taxes of the existing political subdivisions.

*Background:* Under current law, the legislative body of a township may levy a tax with a cumulative fund tax rate not to exceed \$0.0333 on each \$100 of assessed valuation of property in the taxing district. Under this bill, the levy that results from the cumulative fire tax rate in a reorganized unit that includes a township would not be subject to maximum levy limitations.

In the case of a township or fire protection district, the cumulative fire levy is currently not subject to a maximum levy limit. However, if a municipality imposed a cumulative fire levy in 1984, then a part of a municipality's cumulative fire levy, up to the amount of the 1984 levy, is subject to the municipality's maximum levy limit.

In a case where a township and municipality reorganize, a part of what was the municipality's maximum levy limit could be made available for levies in funds other than the cumulative fire fund. However, under the current government reorganization statute, the DLGF must adjust maximum levies to, among other things, eliminate any excess by which the amount of taxes exceeds the amount necessary to pay for goods and services. So, depending on DLGF actions, this provision may not have any overall impact on property tax levies.

**State Agencies Affected:** Department of Local Government Finance.

**Local Agencies Affected:** Township reorganizations.

**Information Sources:**

**Fiscal Analyst:** Karen Firestone, 317-234-2106; Bob Sigalow, 317-232-9859.